

Application No. 10/~~177~~⁷⁷⁷,184
Response to Restriction Requirement dated August 2, 2006
In Reply to Office Action dated May 4, 2006

REMARKS

Claims 1-37 are presently pending in the application.

The Office Action sets forth a requirement to elect a single disclosed species from one of the following for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable:

Group I Figs. 1-3

Group II Fig. 4

Group III Embodiment (not shown) where the obstructing portion of the clip is removably attached to the clip.

Group IV Embodiment (not shown) where the obstructing portion of the clip can also function as a closing slide.

Group V Figs. 5A and 5B.

The Office Action further states that claims 1-3, 10, 11, 16, 26 and 28 are currently generic.

Applicant respectfully submits that the Office Action's characterization of Group IV as within the scope of the invention is at least partially in error. It is believed that the Examiner's support for Group IV comes from the following section of the specification, specifically the second sentence:

In another alternative embodiment of the blocking structure, the clip-shaped spacer's obstructing portion is removably attached to the body of the spacer. And, alternatively, the clip-shaped spacer with a removably attached obstructing portion may be formed such that it can also function as a closing slide for the interlocking tongue and groove system.

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Col. 8, lines 25-28.

As the Examiner will note upon consideration of the above quotation, the Group IV statement that "the obstructing portion of the clip can also function as a closing slide" is not what is disclosed above. Instead, "the clip-shaped spacer with a removably attached obstructing portion may be formed such that it can also function as a closing slide." The phrase "it" in the preceding quote refers to the "clip-shaped spacer with a removably attached obstructing portion" generally and more specifically to the "clip-shaped spacer," not solely to the "removably attached obstructing portion." As stated in the summary of invention: "The present invention presents a novel and nonobvious sealable bag construction to facilitate the evacuation of excess air that would otherwise be trapped within the sealable bag upon closure, such construction comprising incorporating a temporary blocking structure into the sealable bag for removable placement into the bag's opening." Col. 3, lines 15-19. A clip-shaped spacer in the form of a closing slide as is known in the art, without an additional element comprising a "temporary blocking structure ... for removable placement into the bag's opening," is not within the scope of applicant's invention, and, indeed, applicant's invention is patentably distinct therefrom.

With such clarification of the scope of what the Examiner contends is Group IV, applicant agrees that claims 1-3, 10, 11, 16, 26 are currently generic. Applicant also respectfully submits that claims 20 and 30 are currently generic. Applicant respectfully disagrees that claim 28 is currently generic, as it depends from claim 27, which the Examiner does not view as generic.

Further, by this response, applicant elects Group I, which applicant respectfully submits is covered by the aforementioned generic claims and claims 4-9, 12-15, 17-19, 21-25, 27-29, and 31-36 without traverse.

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CONCLUSION

In view of the foregoing remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed. Any other fee required by this document, other than the issue fee, and not submitted herewith should be charged to Sidley Austin LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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